

State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES
6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



GRJH, Inc.
PO Box 728
Sharon, CT 06069

Re: Cobble Pond Farms
Main Street
North Conway, NH 03860

**NOTICE OF PROPOSED
ADMINISTRATIVE FINE
AND HEARING
No. AF 01-022**

April 23, 2001

I. Introduction

This Notice of Proposed Administrative Fine and Hearing is issued by the Department of Environmental Services, Waste Management Division (the Division) to GRJH, Inc., pursuant to RSA 146-C:10-a and Env-C 601.05. The Division is proposing that a fine totaling \$500 be imposed against GRJH, Inc. for the violation alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. Parties

1. The Department of Environmental Services, Waste Management Division, is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH.
2. GRJH, Inc. is a New Hampshire corporation having a mailing address of PO Box 728, Sharon, CT 06069. GRJH, Inc. is the successor in interest to Peterson Petroleum of New Hampshire.

III. Summary of Facts and Law Supporting Claim(s)

1. RSA 146-C authorizes the Department of Environmental Services (DES) to regulate underground storage tank (UST) facilities. Pursuant to RSA 146-C:9, the Commissioner of DES has adopted rules to implement this regulatory program (Env-Wm 1401, effective April 22, 1997, which superceded Env-Ws 411 effective September 17, 1985 through November 1, 1990 and Env-Ws 411 effective November 2, 1990 through April 21, 1997).
2. RSA 146-C:10-a authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C, including any rule adopted pursuant thereto. Pursuant to RSA 146-C: 10-a, I, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
3. GRJH, Inc. was the owner of four gasoline, one diesel, and two heating oil UST systems previously located at Cobble Pond Farms, Main Street, Conway, NH further identified as UST #0-110924 (the Facility). The UST systems were removed on November 10, 1993.

4. The Facility is subject to the requirements of RSA 146-C and the rules adopted pursuant to that chapter.
5. Env-Wm 411.18(d)(7) required the owner of a UST system to submit results of the closure assessment containing results of field screening and laboratory analysis of samples taken for the presence of contamination to the Division within 30 days of the samples being taken.
6. Division records reflect that no results of the closure assessment for the Facility have been received.

IV. Violations Alleged

1. GRJH, Inc. has violated Env-Wm 1401.18(f)(9) by failing to provide results of the closure assessment to the Division within 30 days of samples being taken during the removal of the seven UST systems on November 10, 1993.

V. Proposed Administrative Fines

1. For the violation identified in IV.1. above, Env-C 607.06(e) specifies a fine of \$500. For the violation noted above, the Division is seeking a total fine of \$500.

The total fine being sought is \$500.

VI. Hearing, Required Response

GRJH, Inc. has the right to a hearing to contest the Division's allegations before the fine is imposed. A hearing on this matter has been scheduled for **Monday, June 11, 2001 at 1:00 p.m.** in **Room C-110** of the DES offices at **6 Hazen Drive** in Concord, NH.

Pursuant to Env-C 601.06, GRJH, Inc. is required to respond to this notice. Please respond no later than May 18, 2001 using the enclosed colored form as follows:

1. If GRJH, Inc. plans to attend the hearing, please have an authorized representative sign the appearance (upper portion) and return it to James Ballentine, DES Enforcement Paralegal, at the address noted on the form.
2. If GRJH, Inc. chooses to waive the hearing and pay the proposed fine, please have an authorized representative sign the waiver (lower portion) and return it **with payment of the fine** to Mr. Ballentine.
3. If GRJH, Inc. wishes to discuss the possibility of settling the case, please have an authorized representative sign the appearance and return it to Mr. Ballentine **and** call Mr. Ballentine to indicate GRJH, Inc.'s interest in settling.

GRJH, Inc. is not required to be represented by an attorney. If GRJH, Inc. chooses to be represented by an attorney, the attorney must file an appearance and, if a hearing is held, submit proposed findings of fact to the person conducting the hearing.

If GRJH, Inc. wishes to have a hearing but is unable to send an authorized representative to the hearing as scheduled, GRJH, Inc. must notify Mr. Ballentine at least one week in advance of the hearing and request that the hearing be rescheduled. If GRJH, Inc. does not

notify Mr. Ballentine in advance and does not have an authorized representative attend the hearing, the hearing will be conducted anyway in accordance with Env-C 204.09.

VII. Determination of Liability for Administrative Fines

Pursuant to Env-C 601.09, in order for any fine to be imposed a Pursuant to Env-C 601.09, in order for
 prove,prove, by a preponderance of the evidence, that GRJH, Inc. committed the violation alleged prove, by a prepo
 thethe total amountthe total amount of the fine soughtthe total amount of the fine sought is the appropriate amount
 ProvingProving something byProving something by a preponderance of the evidence means that it isProving som
 the thing sought to be proved is true.

If the Division proves that GRJH, Inc. committed the appropriate amount under the applicable statute and rules, imposed, subject to the following:

- * Pursuant to Env-C 601.09(c), the fine will be reduced by 10% for each of the following listed below that GRJH, Inc. proves, by a preponderance of the evidence, in this case:
1. The violation was a one-time or non-continuing violation, and the violation has not threatened the requirement when the violation occurred, and any environmental harm or threat as of the time of the hearing, and GRJH, Inc. did not benefit financially, whether directly or indirectly, from the violation.
 2. At the time the violations were committed, GRJH, Inc. was complying with the requirement that was violated.
 3. GRJH, Inc. has no history of non-compliance with the statutes or with any permit issued by DES or contract entered into with DES.
 4. Other information exists which is favorable to GRJH, Inc. at the time the fine was proposed.

*******IMPORTANT NOTICE*******

The hearing that has been scheduled is a formal hearing. The hearing will recorded, and all witnesses will testify under oath or affirmation. At the hearing, the Division will present testimony and evidence to try to prove the violation committed by GRJH, Inc. s opportunity to present testimony and evidence to try to prove the violation alleged above and that the fine should be imposed, or that the fine sought should be reduced based upon the evidence, such as photographs, business records or other relevant information presented at the hearing.
GRJH, Inc. did not commit the violation and/or that the fine(s) should be reduced based upon the evidence, such as photographs, business records or other relevant information presented at the hearing.

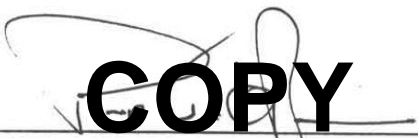
believesbelieve show that GRJH, Inc. believes show that GRJH, Inc. did not cobelieve show that GRJH, Inc. s position, GRJH, Inc. should bring the evidence to

the hearing. GRJH, Inc. may also bring the hearing. GRJH, Inc. may also bring witness the testify on GRJH, Inc. s behalf.

If GRJH, Inc. wishes to have an informal meeting to discuss If GRJH, Inc. wishes to have Inc. must cInc. must contact MrInc. must contact Mr. Ballentine at (603) 271-6072 conference.

InformationInformation regarding this proposed fineInformation regarding this proposed fine may be made available (www.state.nh.us.des).(www.state.nh.us.des). If GRJH, Inc.(www.state.nh.us.des). If GRJH, Inc. has any(w Ballentine, DES Enforcement Paralegal, at (603) 271-6072.

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COPY
Philip J. O'Brien, Ph.D., Director
Waste Management Division

Enclosure (*NHDES Fact Sheet #CO-2 2000*)

cc: Gretchen Rule, DES Enforcement Coordinator
Susan Alexant, DES Hearings and Rules Attorney
Thomas R. Beaulieu, Chief
Lynn A. Woodard, P.E., Supervisor

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APPEARANCE

_____ I/we will attend the hearing scheduled for **Monday, June 11, Monday, June 11, 2001 at 1:00 p.m.** in **Room C-110** of
DES offices at **6 Hazen Drive** in Concord, NH.

Signature

Date

Name (please print or type): _____

Title: _____ Title: _____

WAIVER OF HEARING

I/we certify that I/we understand my/our right to a hearing regarding the _____ I/we certify that I/we understand n
administrativeadministrative fine and that I/we hereby waive those rights. The fine payment in the amount of \$500
paid to Treasurer, State of New Hampshire is enclosed.*

** If* If you pay by check, draft, or money order that is returned due to insufficient funds, pursuant to NH
RSARSA 6:11-a, DES may charge a fee in the amountRSA 6:11-a, DES may charge a fee in the amount of 5% of the fac
or or money order or \$25.00, or money order or \$25.00, whichever or money order or \$25.00, whichever is greater, plus a
the amount of the original check draft, or money order.*

Signature

Date

Name (please print or type): _____

Title: Title: _____

RETURN THIS PAGE ONLY TO:

James Ballentine, DES Enforcement Paralegal
Department of Environmental Services
6 Hazen Drive
P.O. Box 95
Concord, NH 03302-0095